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REMARKS

The Office Action mailed November 29, 2005 considered and rejected claims 1-44.[1] By this amendment, claims 1, 9, 11, 16-18, 20, 21, 27-29, 31, 32, and 42-44 have been amended[2] and new claim 45 has been added such that claims 1-45 are now pending. Claims 1, 11, 21 and 32 are the only independent claims. Reconsideration is respectfully requested.

The application is generally directed towards providing banner advertisements when video advertisements from a video provider are unavailable. This allows for efficient use of advertising space on a display, such as from a set-top box. It will be noted that the claimed embodiments recite methods that are performed from the perspective of *a terminal processing device where the video advertisements and banner advertisements are received and displayed.* This is in direct contrast to the art cited by the Office Action which discloses video sources such as cable headends, cable TV centers, and the like, which provide the media content to the terminal devices and perform related, but different, functionality.

Applicants' invention, as claimed for example in independent method claim 1, relates to transitioning to a video advertisement *from a video provider* by displaying a related banner advertisement *at a terminal processing device.* The method includes performing acts *at the terminal processing device* including: receiving at the one or more video streams containing a plurality of real-time video advertisements which begin at a plurality of distinct times; generating, on the display device, a display screen having an advertisement region in which one or more real-time video advertisements are to be displayed; determining that only a tail end of a current real-time video advertisement contained within the one or more video streams is

[1] Claims 1, 5-10, and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over "near video on demand" (NVOD), as described by U.S. Patent No. 6,201,536 to Hendricks et al. (hereinafter referred to as "*Hendricks*") and U.S. Patent No. 6,211,901 to Imajima et al. (hereinafter referred to as "*Imajima*"). Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of *Hendricks* and *Imajima*, and also over U.S. Patent No. 6,637,906, which is attributed to Yuen et al. (and hereafter referred to as "*Yuen*"). Claims 11, 14-24, 27-35, and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of *Hendricks* and *Imajima*, and also over U.S. Patent No. 6,728,776, which is attributed to Colbath (hereinafter referred to as "*Colbath*"). Claim 12-13, 25-26, and 36-37 are rejected under 35 U.S.C. 103(a) as being unaptentable over the combination of *Hendricks*, *Imajima*, and *Colbath*, and also over *Yuen*. Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

[2] Support for the amendments can be found throughout the specification, but with particularity at paragraphs [07] and [031].

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available, in that a begin time for the current real-time video advertisement has passed; determining that a next real-time video advertisement is not yet available for display, in that a begin time for the next real-time video advertisement has not yet been reached; identifying a banner advertisement having subject matter that is related to that of at least one of the real-time video advertisements; while waiting for the begin time of the next real-time video advertisement, displaying the banner advertisement within the advertisement region; determining that the next real-time video advertisement is available for display, in that the begin time for the next real-time video advertisement has been reached; and at the begin time of the next real-time video advertisement, replacing the banner advertisement with the next real-time video advertisement.

Applicants' invention, as claimed for example in independent method claim 11, relates to displaying video advertising content from a *video provider* to a viewer *at a terminal processing device* by way of the display device. The method includes *acts at terminal processing device* including: receiving one or more video streams containing a plurality of video advertisements; receiving at least one trigger from a first video stream communicating with the processor, the at least one trigger defining a begin time when a first video advertisement in the first video stream is to be displayed, on the display device, within an advertisement region of a display screen; determining that the first video advertisement is not yet available for display; identifying a first banner advertisement having subject matter that is related to that of the first video advertisement; displaying the first banner advertisement within the advertisement region of the display device; analyzing the at least one trigger to identify the begin time when the first video advertisement is to be displayed; determining that the begin time when first video advertisement is to be displayed has been reached; determining that the first video advertisement is available for display; and upon determining that both the begin time has been reached and determining that the first video advertisement is available for display, transitioning between the first banner advertisement and the first video advertisement to display the first video advertisement within the advertisement region.

Applicants' invention, as claimed for example in independent computer program product claim 21, relates to a computer product for implementing a method for displaying video advertising content *from a video provider* to a viewer *at a terminal processing device*, the video advertising content selectable from at least one video advertisement content deliverable upon at least one video stream. The computer program product includes a computer readable medium

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carrying computer-executable instructions for implementing the method *at the terminal processing device*, and the computer-executable instructions comprise: program code means for receiving one or more video streams containing a plurality of video advertisements; program code means for receiving a first video advertisement from a first video stream of the at least one video stream communicating with the processor, the first video advertisement comprising video advertising content and at least one trigger defining time information regarding the video advertising content; program code means for generating, on the display device, a display screen having an advertisement region in which the video advertising content is to be displayed; program code means for analyzing the time information of the at least one trigger to identify a begin time when the video advertising content is to be displayed upon a display device within an advertisement region of a display screen; program code means for determining that the video advertising content is not yet available for display; program code means for identifying a first banner advertisement; program code means for displaying the first banner advertisement within the advertisement region of the display device; program code means for determining that the begin time when the video advertising content is to be displayed has been reached; program code means for determining that the video advertising content is available for display; and program code means for transitioning between the first banner advertisement and the advertising content of the first video advertisement, in response to analyzing the trigger, determining that the begin time when the video advertising content is to be displayed has been reached, and determining that the video advertising content is available for display, in order to display the first video advertising content within the advertisement region.

Applicants' invention, as claimed for example in independent method claim 32, relates to a method for targeting a viewer with video advertising content *from a video provider*, based upon the viewer's preferences. The method includes *acts at terminal processing device* including: receiving one or more video streams containing a plurality of video advertisements; retrieving preference data from a data source, the preference data representing viewing selections of the viewer; identifying a plurality of video advertisements deliverable to the processor by a plurality of video streams, each video advertisement of the plurality of video advertisements comprising video advertising content, at least one trigger, and a video content identifier; analyzing each of the plurality of video streams to identify at least one video advertisement of the plurality of video advertisements in compliance with the preference data based on the video content identifier of

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the at least one video advertisement; generating a display screen having an advertisement region in which the at least one video advertisement is to be displayed; determining that the at least one video advertisement is not yet available for display; identifying a first banner advertisement in compliance with the preference data; while waiting for the at least one video advertisement to become available, displaying the first banner advertisement within the advertisement region of the display device; analyzing the at least one trigger to identify a begin time when the at least one video advertisement is to be displayed; determining that the begin time when the at least one video advertisement is to be display has been reached; determining that the at least one video advertisement is available for display; and in response to analyzing the video content identifier of the at least one video advertisement, analyzing the at least one trigger to identify the begin time, determining that the begin time has been reached, and determining that the at least one video advertisement is available for display, transitioning between the first banner advertisement and the least one video advertisement in order to display the at least one video advertisement when the at least one video advertisement is available for display.

The references cited by the Office Action fail to disclose or suggest the various elements recited by the independent claims as being performed at a terminal processing device such as that set forth in the claims of the present application.

For example, the Examiner states in the Office Action at pages 2 and 3 that:

> Accordingly, the Applicants, in their arguments, appear to analogize the claimed computing system with a single end-user device, such as for example, the set top terminal described by Hendricks. In response, the Examiner respectfully notes that a "computing system," given its broadest most reasonable interpretation, need not encompass only a single end device (e.g. the set top terminal of Hendricks), but may comprise a plurality of interacting devices. That is, the headend, the operations center, and the one or more set top terminals described by Hendricks may be considered components of a system, e.g. a "computing system."

While the Applicants believe that the previous amendments addressed the differences between headends, operation centers and the like, as compared to the claimed local terminal computing devices, the claims have nonetheless been further amended to help clarify these differences between what is recited by the claims of the present application and the art cited by the Examiner. In particular, the claims now explicitly recite how the claimed methods are performed at terminal processing devices as contrasted with the cable headends, cable TV centers, and the like, which are illustrated in the art cited by the Examiner and which provide

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data to the terminal processing devices, such as set-top boxes (claim 45) and other similar devices.

Hendricks is directed to systems and methods for providing various television services to a set-top terminal. Such services include near video on demand (NVOD), virtual video on demand (VVOD), and various other services. Abstract. *Hendricks* does indeed teach a NVOD system that provides staggered start times for a program. Col. 34, lines 32-59. However, in the system disclosed by *Hendricks*, selection of the video to display and any intervening content between videos is clearly controlled by a centralized headend and not by a subscriber or a set top terminal, as claimed. See e.g. Figure 5. The headend delivers content to a set top terminal by issuing commands to tune the set top terminal to a channel where data selected by the headend is being transmitted. For example, *Hendricks* discloses that "the network management CPU 260 prompts...the file server 215 to select and spool the appropriate data that can be sent to the set top terminal 220 in order for the set top terminal 220 to tune or switch to the proper channel displaying the program with the nearest start time." Col. 34, lines 47-52.

Hendricks further discloses that a preview may be displayed prior to a program selected by a user. Col. 19, line 45-Col. 20 line 62. *Hendricks'* preview, however is not chosen at the set top box, but rather by whatever is being displayed on a preview channel. Thus, *Hendricks* fails to disclose at least elements recited in the claims directed towards determining at the terminal processing device that a video advertisement is not yet available, and elements directed towards identifying and displaying at the terminal processing device banner advertisements until a real-time video advertisement is available.

Applicants also note that *Imajima* fails to compensate for the deficiencies of *Hendricks*. In particular, *Imajima* illustrates a system similar to that of *Hendricks* in that the system of *Imajima* includes a centralized CATV system that determines what video content and content before the video content will be displayed. See e.g. Figure 11 at 100. The system of *Imajima* is directed towards choosing between near video on demand (NVOD) and full video on demand (FVOD). NVOD broadcasts video at different channels at a time interval. Col. 1, lines 46-52. FVOD allows a subscriber to immediately request and begin viewing a program. Col. 1, lines 36-38. Illustrating the centralized nature of the *Imajima* system, the disclosure states that the NVOD service...notifies the [set top box] of the receiving channel for the video data...[and] provides other video data to the subscriber until the start of the NVOD service...[where] [t]he

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provided video data can be information about the latest programs, community information, and variations of other data. Col. 15, line 63-Col. 16, line 5. Thus, *Imajima* illustrates centralized selection of video programming and programming around the video programming and not the identification, and displaying elements at the terminal computing device, as recited by the claims of the present application. Thus, *Imajima* does not disclose or suggest what is recited by the claims of the present application, alone or in combination with *Hendricks*.

Yuen also fails to compensate for the deficiencies of *Hendricks* and *Imajima*. In particular, *Yuen* was cited by the Office Action as showing an electronic program guide which displays a currently selected video program and which comprises a background region comprising one or more banner advertisements. However, *Yuen* clearly fails to disclose or suggest, among other things, determining *at the terminal computing device* that a next real-time video advertisement is not yet available for display, *in that a begin time for the next real-time video advertisement has not yet been reached,* or alternatively analyzing *at the terminal computing device* the at least one trigger to identify the begin time when the first video advertisement is to be displayed and determining at the terminal processing device that the begin time when first video advertisement is to be displayed has been reached. *Hendricks* and *Imajima* also fail to disclose or suggest these things.

Finally, *Colbath* also fails to compensate for the deficiencies of *Hendricks*, *Imajima*, and *Yuen*. In particular, *Colbath* is cited as showing a waiting period before enough of video program can be received before it is displayed. The office action asserts that *Colbath* teaches, during this waiting period, displaying an alternative set of data. However, even assuming *arguendo* that this is true, it will be noted that the claims of the present application require that the method includes determining at the terminal processing device that a next real-time video advertisement is not yet available for display, *in that a begin time for the next real-time video advertisement has not yet been reached,* or alternatively analyzing at the terminal processing device the at least one trigger to identify the *begin time* when the first video advertisement is to be displayed and determining at the terminal processing device that the begin time when first video advertisement is to be displayed has been reached. The language of *Colbath* actually appears to be in contrast with these claim elements insofar as *Colbath* illustrates that video decisions are based on data being available and not on begin times. See *e.g.* Col. 1, 38-41, Col. 2, lines 14-18, and Col. 3, lines 49-53.

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For at least the foregoing reasons, Applicants respectfully submit that the combination of *Hendricks*, *Imajima*, *Yuen*, and *Colbath* fail to disclose or suggest what is recited by the claims of the present application. Accordingly, for at least these reasons, the rejections of record are now moot, such that it is not necessary to address each of the other assertions of record in the last response. In particular, although the foregoing remarks have been focused primarily on the independent claims, it will be appreciated that all of the rejections and assertions of record with respect to the independent claims, as well as the dependent claims, are now moot, for at least the foregoing reasons, and therefore need not be addressed individually. However, in this regard, it should be appreciated that Applicant does not necessarily acquiesce to any assertions in the previous Office Action that are not specifically addressed above, and hereby reserves the right to challenge those assertions at any appropriate time in the future, should it arise, including any official notice.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 4 day of January, 2006.

Respectfully submitted,

RICK D. NYDEGGER
Registration No. 28,651
JENS C. JENKINS
Registration No. 44,803
J. LAVAR OLDHAM
Registration No. 53,409
Attorneys for Applicant
Customer No. 047973

RDN:JCJ:JLO:crb
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